REMARKS/ARGUMENTS

The claims have been amended to recite that the high level disinfecting and sterilization compositions of the present invention must be buffered to a pH less than 7. This is made clear in the Specification on page6, the paragraph beginning at line 14; page 7, the paragraph beginning at line 6; page 8, the paragraph beginning at line 5 and lines 23 and 24; page 9, lines 16-18; page 10, lines 9 to 11 and 23 to 25; and page 11, lines 14 to 16.

In addition, the specification and claims have been amended to correct the misspelling of aliphatic. Claim 10 has also been amended to correct the inadvertent typographical error as to the pH.

Before commenting on the rejection of the claims, the Examiner is requested to reconsider the erroneous conclusions underlying his decision as to restriction.

Firstly, it is to be noted that applicants' claims are directed to liquid chemical sterilants and "high level" disinfectants. These are defined terms and these types of compositions are known by those skilled in this art to be regulated by the FDA. Submitted herewith, and marked as Exhibit 1, is a copy of the cover page and pages 10, 11, 34 and of the regulations issued in January 3 2002 by the U.S. Department of Health and Human Services entitled "Content and Format of Premarket Notification [510(K)] submissions for Liquid Chemical Sterilants/High Level Disinfectants."

This document shows the stringent Federal requirements that must be met in order for a product to be sold as a liquid chemical sterilant/high level disinfectant. Note in

particular are the circled portions on page 10. Thus, not any sterilant or disinfectant meets these standards; Chlorine does not.

Applicants have shown on page 3 and Example IV of the instant application that they have used the AOAC testing required to certify that their claimed compositions are high level disinfectants.

Thus, contrary to the Examiner's assertion chlorine cannot be used to disinfect or sterilize the surface as called for by claims 7 to 9 and 15 to 17 since it is not a high level sterilant and these claims require the sterilization and high level disinfectants from which they depend.

Secondly, assuming the restriction requirement is proper, that is not dispositive of the issue. The Examiner failed to address Section 807 of the M.P.E.P. referred to by the applicants in their response to the restriction requirements.

Specifically, the Examiner failed to show that the examination of the entire application could not be made without serious burden. Since the non-elected claims are dependent upon the elected claims it is obvious there could be no serious burden since the fields of search would be essentially identical for both. Section 803 specifies that if there is no serious burden the Examiner must examine the entire application on the merits. Such required action by the Examiner is respectfully requested.

Reconsideration is requested of the rejection of claims 1-5 and 10-13 over 35 U.S.C. 102 (b) as being anticipated by the Hoover patent (U.S. 3,562,157).

Hoover fails to show any sterilants/high level disinfectants as claimed by Applicants. It also fails to show or suggest a buffering agent to maintain the pH of their solution at a pH of less than 7.

Further, hydroquinone is not a buffering agent and is in fact a known toxic material that would preclude its use in sterilizing devices in laboratories, medical facilities, and the like. Attached hereto as Exhibit 2, is a copy of p. 619 of the Condensed Chemical Dictionary that hydroquinone is toxic by ingestion and inhalation. It may be used in the environments in which Hoover sets forth; namely secondary oil recovery, but not in medical environments. In such underground use by Hoover it will not be hazard to humans.

Further, Hoover shows use of concentrations of the malealdehyde in his composition well below any that would be effective to make them high level disinfectants against spores, viruses, and the like. In col. 4, lines 19-24 of Hoover he shows the malealdehyde is used in concentration of at least 1 ppm and preferably 5-15 ppm. This is 0.0001% to 0.00015%. The highest level shown in the Examples of Hoover is 20 ppm (0.0002%). It is also to be noted that Hoover says nothing about destruction of bacterial spores, or disinfecting medical equipment.

Reconsideration is also requested of the rejection of claims 8 and 14 under 35 U.S.C. 103(a) as being obvious over Hoover further in view of Buckner et al. The deficiencies of Hoover have been discussed above. There is nothing in Bruckner et al. which overcomes such deficiencies.

For the forgoing reasons, reconsideration is required of the restriction requirement and rejection of the claims and the allowance of all the claims is respectfully requested.

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Respectfully submitted,

Robert M. Mason, Reg. No. 33,067
402 Carillon Tower West
13601 Preston Road
Dallas, Texas 75240
Telephone: (972) 788-1500
Facsimile: (972) 788-1561

ATTORNEY FOR APPLICANT

CERTIFICATE OF MAILING

I hereby certify that the above-noted paper was deposited with the United States Postal Service first class mail, postage prepaid in an envelope addressed to: Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, sent on December 9, 2005.

Robert M. Mason